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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,508	12/13/2005	Reiner Marchthaler	10191/4070	1287
26646 7590 01/07/2009 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
PATTON, SPENCER D				
ART UNIT		PAPER NUMBER		
4184				
MAIL DATE		DELIVERY MODE		
01/07/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/517,508

Applicant(s)

MARCHTHALER ET AL.

Examiner

SPENCER PATTON

Art Unit

4184

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date 12/10/2004.
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Receipt is acknowledged of the IDS filed on 12/10/2004, which has been entered in the file. Claims 5-10 are pending.

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement filed 12/10/2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. Two foreign patent documents were lined through since no copy was provided and no copy appears in the application file.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 5-9** are rejected under 35 U.S.C. 102(b) as being anticipated by Mizukoshi et al (US Patent No. 5,583,800).

Mizukoshi et al teaches:

Re claim 5. An apparatus (Doppler-effect vehicle speed detecting apparatus, Figure 1) for determining inherent vehicle velocity, comprising:

a pre-crash sensor suite (Figure 1; column 4, lines 5-33; and column 13, lines 3-40) for determining the inherent vehicle velocity, the pre-crash sensor suite being configured in such a way that when a predefined operating state exists (transient running state), the pre-crash sensor suite determines the inherent vehicle velocity as a function of a signal reflected from the ground.

Re claim 6. Wherein the pre-crash sensor suite has a radar sensor suite (transmitter 10 and receiver 12, Figure 1).

Re claim 7, 8, and 9. Wherein the operating state is a locked/spinning/suspended wheel (column 4, lines 5-33; and column 13, lines 3-40; transient running state of the vehicle in which the estimated vehicle speed does not accurately represent the ground speed of the vehicle).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over Mizukoshi et al in view of Holmes (US Patent No. 5,430,450).

The teachings of Mizukoshi et al have been discussed above.

Mizukoshi et al fails to specifically teach: **(re claim 10)** further comprising an arrangement for comparing signals reflected from an object with the inherent vehicle velocity in such a way that the object is classified.

Holmes teaches distinguishing moving objects from stationary objects within the radar's field of vision by comparing the object's speed to that of the vehicle's (column 5, lines 38-43).

In view of Holmes' teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the speed detecting apparatus as taught by Mizukoshi et al, **(re claim 10)** further comprising an arrangement for comparing signals reflected from an object with the inherent vehicle velocity in such a way that the object is classified; since Holmes teaches distinguishing moving objects from stationary objects, which improves Doppler accuracy when determining vehicle speed by eliminating signals from moving objects (column 5, line 48 - column 6, line 2).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fukumori (US Patent No. 3,889,259) teaches using a vehicle's radar speed sensor when a brake pedal is pressed. Reiche (US Patent No. 6,445,337) teaches a radar speed sensor for a vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SPENCER PATTON whose telephone number is (571)270-5771. The examiner can normally be reached on Monday-Thursday 7:30-5:00; Alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jared Fureman can be reached on (571)272-2391. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SPENCER PATTON/
Examiner, Art Unit 4184

/Jared J. Fureman/
Supervisory Patent Examiner, Art
Unit 4184

12/22/2008